

**ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY MANAGEMENT
Ozone Transport Commission - Low Emission Vehicles Program
Proposed Amendments: N.J.A.C. 7:27-26.1, 26.2
Proposed New Appendix: N.J.A.C. 7:27-26, Appendix**

Authorized By: Robert C. Shinn Jr., Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3 and 26:2C-1 et seq., in particular 26:2C-8.

DEP Docket Number: 29-98-11/677

Proposal Number: PRN 1998-544

A **public hearing** concerning this proposal will be held at 10:00 A.M. on Wednesday, January 6, 1999, at:

First Floor Hearing Room
Department of Environmental Protection
401 East State Street
Trenton, New Jersey

Submit written comments by January 8, 1999 to:

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Attention: DEP Docket No. 29-98-11/677
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The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) is proposing amendments to its Ozone Transport Commission-Low Emission Vehicles (OTC-LEV) Program in order to facilitate full participation in, and thereby receive the full air quality benefits from, the

National Low Emission Vehicle (NLEV) Program. This voluntary national program will bring lower-emitting new light-duty vehicles to New Jersey, commencing with the 1999 model year. The NLEV program will cost less and engender a reduced regulatory burden, while achieving the same or greater emission reductions in the Ozone Transport Region (OTR) as would the State's OTC-LEV program.

On November 22, 1995, Environmental Protection Commissioner Robert C. Shinn, Jr., adopted the OTC-LEV program at N.J.A.C. 7:27-26. See 27 N.J.R. 5016(a). The Department had stated in the May 15, 1995 proposal of this rule at 27 N.J.R. 1910(a) that

[t]he purpose of this rulemaking is to reduce emissions of air pollutants from new motor vehicles as part of New Jersey's overall effort to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide (CO). This action is one part of a comprehensive program to control motor vehicle emissions. Other components include use of cleaner fuels, enhanced vehicle inspection and maintenance, and actions to reduce motor vehicle use.

As adopted, the rules explicitly provided that the regulated automobile manufacturers (manufacturers) producing new light-duty motor vehicles for sale in the State could comply with a national program as an alternative to these rules. The United States Environmental Protection Agency (EPA) would, however, first be required to make the determination that such national program would be an acceptable alternative to the State's OTC-LEV program. (See N.J.A.C. 7:27-26.2.)

The Department adopted this compliance alternative in recognition of the ongoing, multi-year negotiations occurring between the 13 jurisdictions (from Virginia to Maine, including New Jersey) comprising the Ozone Transport Commission (OTC) and representatives of manufacturers producing new motor vehicles for sale in the OTC States. The purpose of these negotiations was to provide both the manufacturers and the OTC States with the benefits of a program providing low emission vehicles for sale throughout the United States. Absent an agreement, a select few states (including New Jersey) would mandate California's pioneering LEV program for new car sales within their borders, and the remaining states would receive for sale new cars emitting at the higher polluting Federal Tier 1 tailpipe standards currently in effect.

On June 6, 1997, in recognition of the progress made between the OTC States and the manufacturers in developing an NLEV program, the EPA finalized the main regulatory framework rules for the NLEV program. See 62 Fed. Reg. 31192. On January 7, 1998, EPA finalized its supplemental NLEV program rules addressing the reciprocal commitments necessary to effectuate the NLEV program. See 63 Fed. Reg. 926. These rules established voluntary exhaust emissions standards for new light-duty vehicles that are not quite as stringent as those of the California LEV program. The EPA has determined that implementation of these voluntary standards on a national basis under the NLEV program would provide emissions benefits to the OTC States substantially equivalent to those obtainable from the OTC-LEV program. Further, the standards, which are applicable in the OTC States starting with the 1999 model year and in the remaining states except for California starting with the 2001 model year, are more stringent than those standards that the EPA is authorized to mandate for implementation prior to the 2004 model year.

The manufacturers' compliance with the voluntary standards was based on the understanding that once the OTC States committed to the NLEV program, the manufacturers would elect to opt in, thereby committing the manufacturers to comply with the NLEV program standards. Should a manufacturer subsequently violate any provisions of the program, it would be subject to federal enforcement under the Clean Air Act, 42 U.S.C.A. 7401 et seq. In certain circumstances, a manufacturer's violation of the NLEV program rules would allow the OTC States to opt out and impose on the manufacturers the more stringent California LEV program tailpipe standards.

By letter dated January 28, 1998, Governor Christine Todd Whitman advised EPA Administrator Carol Browner of New Jersey's commitment to the NLEV program. The letter also directed Commissioner Shinn to complete the State's opt-in by taking the necessary steps to adopt appropriate regulations and submit the requisite state implementation plan (SIP) revision committing the State to NLEV in accordance with the EPA NLEV regulations. These EPA NLEV regulations specify that the states shall submit their SIP revisions to the EPA by March 1, 1999. 40 C.F.R. §86.1705-99(g). In her letter, Governor Whitman further directed the New Jersey executive branch departments to accelerate their efforts to promote development and production of lowering-emitting advanced technology vehicles (ATVs) for sale and distribution in the State. Finally, she strongly urged the EPA to adopt even more stringent exhaust emissions standards for new motor vehicles -- those that recognize aggressive emission reduction engineering achievements well beyond NLEV standards -- for implementation beginning with or shortly after the 2004 model year.

By January 30, 1998, Connecticut, Delaware, the District of Columbia, Maryland, New Hampshire, Pennsylvania, Rhode Island and Virginia had joined New Jersey in the state opt-in process for NLEV. On March 2, 1998, after having received notifications from all manufacturers that they voluntarily opted into the NLEV program, the EPA made its finding that the NLEV program is in effect starting in the OTC States with the 1999 model year and in the remainder of the Nation (except for California) with the 2001 model year.

Although the State's 1995 adoption of the OTC-LEV program recognized the likelihood of a national program coming into effect that could serve as a compliance alternative to OTC-LEV, the national program's evolution during subsequent years now makes it necessary to amend the State's rules to better harmonize with the parties' reciprocal commitments and the EPA's regulations including the requirement for substantive identity to language contained in the EPA's supplemental adoption. It is the Department's intent to submit these amendments to the EPA as part of New Jersey's SIP revision consistent with Governor Whitman's January 28, 1998 directive, thereby finalizing the State's commitment to the NLEV program in accordance with the EPA NLEV regulations.

The EPA has required that the March 1, 1999 SIP revisions contain rules identical or containing substantively identical language to applicable provisions at 40 C.F.R. §86.1705-99(g)(1) and (3). This language provides that (i) the manufacturers may comply with the NLEV requirements as an alternative to the State's OTC-LEV Program for the duration of the State's participation in the NLEV program and (ii) the NLEV program is slated to run through model year 2006 unless the EPA fails to adopt new vehicle exhaust emissions standards by the end of calendar year 2000, for implementation commencing with model year 2004, 2005 or 2006, that are at least as stringent as the NLEV standards. The EPA language further provides that if a manufacturer were to opt out of the

NLEV program, transition to the State's more stringent OTC-LEV program would be governed by the EPA's NLEV regulation. The Department has proposed herein, as an amendment at N.J.A.C. 7:27-26.2, language that is substantively identical to the prescribed EPA regulatory language.

The EPA has also required that the State's SIP revision shall accompany the above regulatory language with language that is identical or substantively identical to the language prescribed in applicable provisions at 40 C.F.R. §86.1705-99(g)(4) and (5). This language provides that the State (i) commits to support the NLEV program as an acceptable alternative to a more stringent State program, (ii) recognizes that its commitment is necessary to ensure that the NLEV program remains in effect, (iii) is submitting the SIP revision in accordance with applicable federal statutory and regulatory provisions, and (iv) intends to forbear from adopting and implementing a ZEV mandate effective during the duration of the State's participation in the NLEV program. The Department has proposed herein, in an appendix to subchapter 26, language that is substantively identical to the prescribed EPA non-regulatory language.

The Department is proposing additional amendments to further harmonize the Department's rules with the EPA's NLEV regulations. These changes include added definitions for the terms "Clean Air Act §177 Program," and "NLEV Program" at N.J.A.C. 7:27-26.1.

EPA's adopted national low emission vehicle program rules use the term "NLEV," rather than the former term "49-State Low Emission Vehicle (49SLEV) Program." The proposal deletes the latter term from subchapter 26. Unlike the 49SLEV program, as defined in the existing subchapter 26 that the EPA failed to adopt, the NLEV program does not offer specific provisions that would advance motor vehicle control technology other than increasingly stringent fleet average emission standards.

The proposal also replaces the existing provision at N.J.A.C. 7:27-26.2(c) with new language that explicitly provides for State implementation of the OTC-LEV program upon termination of the State's participation in the NLEV program.

Revisions to N.J.A.C. 7:27-26

The proposed amendments to N.J.A.C. 7:27-26 are described below:

N.J.A.C. 7:27-26.1 Definitions. To reflect changes proposed to subchapter 26, the Department has, at N.J.A.C. 7:27-26.1:

Added definitions of the terms "Clean Air Act §177 Program," and "NLEV Program" to further harmonize the Department's rules with the EPA's NLEV regulations; and

Deleted the definition of the term "49-State Low Emission Vehicle (49SLEV) Program." At the time of the promulgation of New Jersey's OTC-LEV rules, the Department referred to the national LEV program then under consideration as the "49-State Low Emission Vehicle (49SLEV) Program." The EPA's adopted national low emission vehicle program rules use the term "NLEV," rather than "49-State Low Emission Vehicle (49SLEV) Program." As is explained above, the NLEV program does differ from the 49SLEV program in some regards. This replacement of the term

“49SLEV” with the term “NLEV” brings the Department’s rules into conformance with the EPA’s NLEV regulations.

N.J.A.C. 7:27-26.2 Applicability

As is discussed above, the Department proposes replacing the provisions of N.J.A.C. 7:27-26.2(b) with new provisions required by and identical to the EPA’s NLEV regulations, regarding the commitments of the various parties to the NLEV program. In addition, the Department proposes replacing the language at N.J.A.C. 7:27-26.2(c), which describes the circumstances under which the State would implement the OTC-LEV program, with new language which states simply and clearly that implementation of the OTC-LEV program would be triggered by the termination of the State’s participation in the NLEV program.

N.J.A.C. 7:27-26 Appendix

As required by the EPA’s NLEV regulations, the Department proposes adding an appendix to subchapter 26 setting forth four non-regulatory statements regarding: 1) New Jersey’s commitment to the NLEV program; 2) New Jersey’s recognition of the necessity of its commitment to the viability of the NLEV program; 3) the State’s submission of the appropriate SIP revision regarding its participation in the NLEV program; and 4) New Jersey’s intention to forbear from implementing a zero emission vehicle (ZEV) program under specified conditions.

Social Impact

The social impact of the NLEV program is discussed at length in the Department’s OTC-LEV proposal, at 27 N.J.R. 1910(a). To the extent these amendments complete the process of implementation of the NLEV program in New Jersey, they will have the same positive social impact as the original adoption of the OTC-LEV program by the State. As discussed above in the Summary, implementation of the NLEV program will aid the State in its efforts to achieve and maintain the NAAQS for ozone and maintain the NAAQS for CO by reducing the in-use emissions of air contaminants from gasoline-fueled motor vehicles; it will make the air in New Jersey more healthful than would otherwise be possible.

Motor vehicles are significant contributors of carbon monoxide, volatile organic compounds (VOCs) and oxides of nitrogen (NO_x). In the presence of sunlight, VOCs, NO_x and other compounds in the ambient air react to form ozone. VOCs are a subcategory of a much broader spectrum of organic chemical compounds, including hydrocarbons (HCs). HCs are compounds composed of only hydrogen and carbon atoms.

Carbon monoxide is a poisonous gas at certain threshold levels. It is absorbed into the bloodstream and may have both direct and indirect effects on the cardiovascular system. This poisonous gas interferes with the oxygen-carrying ability of the blood. Exposure to CO aggravates angina and other aspects of coronary heart disease and decreases exercise tolerance in persons with cardiovascular problems. In fetuses, infants, elderly persons, and individuals with respiratory diseases, elevated levels of CO are also a serious health risk.

NO_x by themselves exhibit serious human health effects. For example, although nitric oxide (NO) itself is a relatively nonirritating gas, it is readily oxidized to nitrogen dioxide (NO₂), which can damage respiratory defense mechanisms, allowing bacteria to proliferate and invade the lung tissue. NO_x cause irritation to the lungs, lower resistance to respiratory infections, and contribute to the development of emphysema, bronchitis, and pneumonia. NO_x also react chemically in the air to form nitric acid, which contributes to acid rain formation.

Some VOCs, including benzene, formaldehyde and 1,3-butadiene, are classified as air toxics. They have been associated with the onset of cancer and other adverse health effects. As is mentioned above, VOCs participate in photochemical reactions with NO_x to create ozone and other oxidants harmful to health. Ground level ozone is a major public health problem in New Jersey. Studies have proven that ozone has severe and debilitating effects on lung capacity and can have detrimental effects on respiration. A series of EPA studies indicate that ozone exposures as low as 0.08 ppm, which is the newly-promulgated NAAQS for ozone, can impair lung function. Even at low levels, ozone can cause average humans to experience breathing difficulty, chest pains, coughing and irritation to the nose, throat and eyes. For individuals who already experience respiratory problems or who are predisposed to respiratory ailments, these symptoms can become much more severe, forcing those individuals to alter their lifestyles to avoid unnecessary exposure.

In addition, chronic ozone exposure studies performed on laboratory animals indicate that long-term exposure to ozone affects lung physiology and morphology. These studies suggest that humans exposed to ozone over prolonged periods of time can experience chronic respiratory injuries resulting in premature or accelerated aging of human lung tissue.

The implications of these studies are quite serious considering the fact that in 1997, New Jersey's air was categorized as "unhealthy" on 36 days under the new NAAQS for ozone. As of September 15 of this year, the NAAQS for ozone was exceeded on 45 days. It is clear, therefore, that the ozone levels in New Jersey must be reduced in order to protect the health and welfare of the residents of the State. While the State has achieved the NAAQS for CO, it is critical that we continue to maintain this important health standard.

Economic Impact

The economic impact of adoption of the OTC-LEV and NLEV programs is discussed at length in the Department's OTC-LEV program proposal, published on May 15, 1995 at 27 N.J.R. 1910(a). To the extent these amendments complete the process of implementation of the NLEV program in New Jersey they will have the same economic impact as the original adoption of the OTC-LEV program by the State. However, the impact of the following should also be considered.

Under the NLEV program, the declining fleet average for non-methane organic gas (NMOG) will stabilize at 0.075 grams per mile, a figure identical to the NMOG standard for the Low Emission Vehicle (LEV). In its June 6, 1997 adoption of the main regulatory framework rules at 62 Fed. Reg. 31197, the EPA noted that CARB's April 1996 estimate for the incremental cost per unit for meeting the LEV NMOG standard in California was \$96. The EPA believes that the incremental cost for NLEV program will be considerably lower than the CARB estimate for a variety of reasons. First,

automotive pollution control technology will continue to advance, leading to better controls at lower costs over time. For example, Honda had announced the introduction of new LEV technology that will add little or no cost to vehicles. Second, the NLEV program includes numerous provisions to harmonize federal and California motor vehicle requirements. The resulting cost-savings for manufacturers and dealers (in areas such as vehicle design, certification testing, mechanic training and inventory control) will be significant and offset at least a portion of the costs for NLEVs. Third, the nationwide production of NLEVs will result in economies of scale for the manufacturers. Fourth, CARB's own cost estimates have generally been shown to be higher than actual price differences. For example, CARB estimates unit price increases for the Transitional Low Emission Vehicle (TLEV), which has an NMOG standard of 0.125 grams per mile (one-half that of today's Tier 1 vehicles) at \$61. Informal surveys of TLEV prices in California and New York, however, have generally shown no price differentials between comparable TLEV and Tier 1 vehicles. Finally, auto industry experience has consistently demonstrated rapid price decreases in successive model years for newly-introduced technology.

The impact on government resources, as discussed in the Department's May 15, 1995 OTC-LEV proposal, recognized that additional staff members would be needed by the Department and the New Jersey Department of Transportation, Division of Motor Vehicles to audit registration, dealer compliance, certification and reporting, and to perform field enforcement. Because the NLEV program is a federally enforceable program governed by the EPA NLEV regulations, the need for these State resources should be significantly reduced, if not entirely eliminated.

Furthermore, implementation of the NLEV program is expected to improve air quality. The Department anticipates that the improved air quality will result in economic benefits by decreasing health costs to the public. Health care costs for air pollution-related illnesses in the United States are estimated to be on the order of \$50 billion per year. In addition, the American Lung Association estimates that, nationally, 182 million people face health threats from ground-level ozone alone. By decreasing the public's exposure to air pollution, these amendments will lessen these health care costs.

Air pollutants also have a direct adverse effect on vegetation, livestock, and certain materials, such as rubber, and glass. Although economic losses due to air pollution damage in these areas are difficult to quantify (since it is difficult to distinguish between natural deterioration and that which is caused by air pollutants), past estimates have indicated that losses from material damage alone have exceeded \$4 billion annually nationwide. Godish, Thad. Air Quality (Chelsea, Michigan: Lewis Publishers, Inc., 1991), p.207. These amendments, by reducing air pollutants, should substantially reduce the adverse economic effects on vegetation, livestock, and other property.

In addition, by complying with Federal air quality standards, the State will be able to avoid the significant adverse economic impact of Federal sanctions.

Environmental Impact

The environmental impact of the NLEV program is also discussed at length in the Department's OTC-LEV proposal, published on May 15, 1995 at 27 N.J.R. 1910(a). To the extent these amendments complete the process of implementation of the NLEV program in New Jersey, they

will have the same positive environmental impact as the original adoption of the OTC-LEV program by the State. The implementation of these amendments will have a positive impact on the environment by reducing the emissions of CO and by reducing the emissions of VOCs, and NO_x, thereby reducing the formation of ground-level ozone. The primary impact of CO and ground-level ozone is upon human health and well-being. These effects are discussed at length in the Social Impact section of this proposal.

In addition to human health effects, studies have shown that increasing ozone levels damage foliage. One of the earliest and most obvious manifestations of ozone impact on the environment is this type of damage to sensitive plants. Subsequent effects include reduced plant growth and decreased crop yield. A reduction in ambient ozone concentrations will mitigate damage to foliage, fruits, vegetables and grain.

Decreased ozone levels will also reduce the level of the degradation of various man-made materials, such as rubber, plastics, dyes and paints. This degradation is caused by the oxidizing properties of ozone. However, if the photochemical production of ground-level ozone can be limited, as it will be with the implementation of the proposed amendments, this degradation can be significantly reduced.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65, require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. Neither the proposed amendments nor the currently promulgated provisions of N.J.A.C. 7:27-26 contain any standards or requirements exceeding those required by Federal law under the Clean Air Act and regulations adopted thereunder by the EPA at 40 C.F.R. Part 51.

Jobs Impact

The Economic Impact statement above discusses the costs that the Department anticipates will result from the NLEV program requirements. Each member of the regulated community will choose its own approach or combination of approaches to defray these costs. Examples of such approaches include decreasing the rate of growth of any of the following: other business expenditures; dividends and other distributions; and compensation to management and other employees. In addition, increased compliance costs could be passed on in the form of higher prices for goods and services sold by regulated companies. Conceivably, the additional costs could cause a regulated entity to decrease the number of its employees. Because each member of the regulated community may defray its increased costs in a different way, it is not possible to estimate accurately the extent, if any, to which these rules will affect employment.

Agricultural Industry Impact Statement

Pursuant to P.L. 1998, c. 48, adopted on July 2, 1998, the Department has evaluated this rulemaking to determine the nature and extent of the proposed amendments' and new rules impact on the agricultural industry. The proposed amendments to the State's OTC-LEV rule at N.J.A.C. 7:27-26 will have no impact upon the agriculture industry.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed amendments will not impose additional reporting or recordkeeping requirements on small business nor would they impose additional compliance requirements on small business (as defined in the Regulatory Flexibility Act). The imposition, by the OTC-LEV rule, as currently promulgated, of reporting, recordkeeping and compliance requirements on small business is discussed at length in the Department's OTC-LEV proposal, at 27 N.J.R. 1910(a). The proposed amendments do not impose any additional reporting, recordkeeping or compliance requirements on small business beyond that which is contained in the currently-promulgated rule; therefore, no Regulatory Flexibility Analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 26. OZONE TRANSPORT COMMISSION - LOW EMISSION VEHICLES PROGRAM

7:27-26.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Clean Air Act §177 Program” means a program, adopted by the State pursuant to section 177 of the Clean Air Act, 42 U.S.C. §§7401 et seq., establishing and enforcing standards for any model year relating to the control of emissions from new motor vehicles or new motor vehicle engines.

...

“49-State Low Emission Vehicle (49SLEV) Program” means an alternative voluntary nationwide program that would achieve emission reductions from new motor vehicles in the Ozone Transport Region (OTR) equivalent to or greater than would be achieved by the OTC-LEV Program and that would advance motor vehicle control technology.

...

“NLEV Program” or “National Low Emission Vehicle Program” means a federally enforceable, voluntary nationwide clean car program designed to reduce smog and other pollution from new motor vehicles and that would achieve emission reductions from new motor vehicles in the Ozone Transport Region equivalent to or greater than would be achieved by the OTC-LEV Program.

...

7:27-26.2 Applicability

(a) (No change.)

[(b) Notwithstanding (a) above, the provisions of this subchapter shall not apply in the event that:

1. The USEPA determines through rulemaking that the 49SLEV is an acceptable alternative for the OTC-LEV Program; and
2. The USEPA finds that the 49SLEV program is in effect.]

(b) Notwithstanding (a) above, for the duration of the State's participation in NLEV, manufacturers may comply with NLEV or equally stringent mandatory Federal standards in lieu of compliance with any program, including the provisions of this subchapter and including any mandates for sales of ZEVs, adopted by the State pursuant to the authority provided in §177 of the Clean Air Act (CAA), 42 U.S.C. §§7401 et seq., applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR, and/or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, §1900, incorporated herein by reference.

- 1. The State's participation in NLEV extends until the commencement of model year 2006, except as provided in 40 C.F.R. §86.1707. If, no later than December 15, 2000, the EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 C.F.R. Part 86, subpart R, that apply to new motor vehicles in model year 2004, 2005 or 2006, the State's participation in NLEV extends only until the commencement of model year 2004, except as provided in 40 C.F.R. §86.1707.**
- 2. If a covered manufacturer, as defined at 40 C.F.R. 86.1702, opts out of the NLEV program pursuant to the EPA NLEV regulations at 40 C.F.R. §86.1707, the transition from NLEV requirements to any State Clean Air Act §177 Program applicable to passenger cars, light-duty trucks up through 6000 pounds GVWR, and/or medium-duty vehicles from 6001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, §1900, incorporated herein by reference will proceed in accordance with the EPA NLEV regulations at 40 C.F.R. §86.1707.**
- 3. Additional, non-regulatory language required by EPA at 40 C.F.R. §86.1705-99(g)(4) and (5) as part of the State's opt into the NLEV Program appears in the Appendix to this subchapter.**

[(c) In the event that the USEPA makes the determination and finding at (b)1 and 2 above, but then the USEPA or the Department in conjunction with the USEPA subsequently determines that the 49SLEV Program is not timely implemented or no longer an acceptable alternative to the OTC-LEV Program or finds that the 49SLEV Program is no longer in effect throughout the OTR, the provisions of this subchapter shall apply.]

(c) Upon termination of the State's participation in the NLEV Program, the provisions of this subchapter shall apply. Notice of such termination shall published in the New Jersey Register.

APPENDIX

The State commits to support NLEV as an acceptable alternative to the State's Section 177 Program for the duration of the State's participation in NLEV.

The State recognizes that its commitment to NLEV is necessary to ensure that NLEV remain in effect.

The State is submitting this SIP revision in accordance with the applicable Clean Air Act requirements at §110 and EPA regulations at 40 C.F.R. Part 86 and 40 C.F.R. Parts 51 and 52.

For the duration of the State's participation in NLEV, the State intends to forbear from adopting and implementing a ZEV mandate effective prior to model year 2006. Notwithstanding the previous sentence, if, no later than December 15, 2000, the US EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 C.F.R. Part 86, subpart R that apply to new motor vehicles in model year 2004, 2005, or 2006, the State intends to forbear from adopting and implementing a ZEV mandate effective prior to model year 2004.